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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**IN RE: CATHODE RAY TUBE (CRT)  
ANTITRUST LITIGATION**

Case No. 3:07-cv-5944-JST  
MDL No. 1917

## CLASS ACTION

**RESPONSE OF BRAMSON, PLUTZIK,  
MAHLER & BIRKHAEUSER, LLP, TO  
OBJECTIONS TO PROPOSED ALLOCATION  
OF FEE AWARD TO INDIRECT  
PURCHASER  
PLAINTIFFS' COUNSEL**

**Hearing Date:** TBD  
**Special Master:** Martin Quinn, JAMS  
**Judge:** Honorable Jon S. Tigar

1 Bramson, Plutzik, Mahler & Birkhaeuser, LLP (“BPMB”) submits this response to  
 2 objections to the Proposed Allocation of Aggregate Fee Award To Indirect Purchaser Plaintiffs’  
 3 Counsel (“Proposed Allocation”).

4 BPMB appreciates the difficult task it was to allocate fees among all of the excellent firms  
 5 that contributed to the result achieved in this case. This case was unusual in that several firms  
 6 worked independently to develop a case against a Defendant group (or perform another significant  
 7 function) but also were extremely cooperative in sharing information and performing additional  
 8 tasks when the need arose. The work product was excellent and Plaintiffs prevailed in their  
 9 litigation objectives. All firms who made a significant contribution to the result should be  
 10 rewarded for their efforts.

12 That said, BPMB believed that lead counsel’s proposed multiplier did not adequately  
 13 compensate BPMB for its work in this case. BPMB staffed the case with two experienced antitrust  
 14 lawyers; it took on responsibility for all aspects of the litigation with the Toshiba group of  
 15 defendants—indisputably the most difficult Defendants<sup>1</sup> in the case; it supervised two separate  
 16 groups of documents reviewers; it acted as a utility player on short notice for a number of tasks  
 17 such as representing IPPs depositions of the Direct Action Purchaser Plaintiffs and preparing a  
 18 state court complaint; it was responsible for working with trial counsel to prepare the case against  
 19 Toshiba for trial; it contributed over \$55,000 to the litigation; and it performed significant post-  
 20 settlement work, for which it will not receive compensation. Birkhaeuser Declaration in Response  
 21 to Objections to Fe Allocation (“Birkhaeuser Dec’l”), ¶ 3-6. BPMB did so at a lower lodestar than  
 22 any other firm that had responsibility for managing the case against a Defendant group up until  
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 27 <sup>1</sup> Toshiba’s intransigence in discovery meant that IPPs were forced to file numerous motions to  
 28 compel against the Toshiba Defendants to obtain nearly all facets of discovery—from custodians  
 whose records would have to be searched for responsive documents (DKT #1154) to witnesses that  
 Toshiba declined to produce for deposition (DKT #2734). IPPs prevailed in every such motion.

1 trial. For these reasons, BPMB believed that a multiplier of 1.8 did not adequately compensate the  
 2 firm for its efforts over such a lengthy period of time.

3 After much deliberation, however, BPMB decided not to object to lead counsel's proposed  
 4 allocation. From BPMB's personal knowledge, lead counsel was very involved with all aspects of  
 5 the case and was in a better position to evaluate the respective contributions of each firm. In  
 6 addition, BPMB felt it was irresponsible to suggest that it receive a higher multiplier, without  
 7 suggesting to the Court from which firm or firms it should be awarded.

8 BPMB worked very closely with some firms such as Zelle, LLP and Straus & Boies that  
 9 were given higher multipliers. Birkhaeuser Dec'l ¶¶7-8. Both assumed heavy responsibilities and  
 10 performed exceptional work. *Id.* BPMB did not work as closely with other firms but knew that all  
 11 firms in the core group staffed the case with excellent attorneys. In the end, BPMB believed that  
 12 the multipliers for Zelle and Strauss & Boies were appropriate and that BPMB did not have  
 13 sufficient personal knowledge to opine that any other firm's multiplier was excessive. For that  
 14 reason, BPMB deferred to lead counsel's judgment and did not object to the proposed allocation.  
 15 Plainly, many other firms who were not entirely satisfied with the multiplier they were assigned  
 16 have done the same.

17 BPMB does not believe any of the objections filed would justify further decreasing the  
 18 multiplier assigned to BPMB's lodestar, and opposes any revision that would reduce it. Several  
 19 firms from tiers below BPMB's and one from the tier above it<sup>2</sup> have objected to lead counsel's  
 20 proposed allocation, claiming that the multiplier assigned to them is inadequate. Except for  
 21 Messrs. Scarpulla and Cooper, none of these firms suggests *how* the Special Master should find the  
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25 <sup>2</sup> Kirby McInerney claimed a total lodestar of \$9,981,414.00 (\$11,090,460.00, before the across-the-board 10% cut that was part of the Court's order). DKT# 4073-2, ¶6. It was assigned a  
 26 multiplier of 1.95. Dissatisfied, KM seeks a multiplier of 2.5 to 2.6 instead. Because its lodestar is  
 27 so high, each .1 increase would take nearly \$1,000,000 from other deserving firms. KM does not  
 28 suggest how the Special Master should find the funds to pay them more than the generous  
 multiplier that lead counsel proposed.

funds to pay them. BPMB believes that such an approach is unhelpful and, indeed unfair, to firms that assumed significant responsibility in this case and were not in the highest tier of multiplier. BPMB requests that the Special Master reject any of these requests and to reject any attempt to lower BPMB's multiplier even further.

Dated: September 16, 2016

**BRAMSON, PLUTZIK, MAHLER &  
BIRKHAEUSER, LLP**

/s/ Daniel Birkhaeuser

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